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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA
6

7 DARNELL MCGARY,
8 Plaintiff,
9 v.
10 DR MARK MCCLUNG,
11 Defendant(s).
12

CASE NO.C05-5376RBL
ORDER DENYING DEFAULT

13 The Motion for Default has been considered together with the files and records in the case and is
14 **DENIED** as to the named defendant(s) for the following reason:

15 () An Answer or responsive pleading has been filed by the defendants(s).

16 () The United States has 60 days in which to answer the summons pursuant ro FRCP 12(a)(3). According
17 to the returns, in the file, the summons were issued on _____ and executed by
18 certified mail _____.
19

20 () Proof of service of the summons and complaint has not been separately filed with the court in
21 accordance with Fed.R.Civ.P. 4 (e)(l).
22

23 () There is no proof that the plaintiff has served this motion for default on defense counsel.
24

25 The pending motion for default judgment, if any, against these defendants is **DENIED AS MOOT**.
26
27

28 DATED: May 11, 2006

BRUCE RIFKIN, Clerk

By: /s/ Jean Boring
DEPUTY CLERK